

REMARKS

Applicants have filed a Notice of Withdrawal of the Pending Appeal to allow further prosecution of the present case. This Amendment is responsive to the Advisory Action dated September 14, 2005 and the final Office Action dated June 23, 2005. This Amendment is being filed to clarify the presently claimed invention. By this Amendment, claims 1, 12 and 17 have been amended to more clearly define the presently claimed invention. Dependent claim 36 has been canceled without prejudice. Claim 6 has been amended to address the objection raised by the Examiner. Claim 37 has been amended to correct an improperly named structure. New claims 40-42 are being presented for consideration. Favorable reconsideration of all pending claims is respectfully requested.

In the outstanding Office Action dated June 23, 2005, claims 1-3, 5, 7-9, 12-15, 17, 20, 22, 36, 38 and 39 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,245,101 to Drasler et al. (the "Drasler patent"). Additionally, claims 10 and 23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Drasler patent in view of U.S. Patent No. 5,617,878 to Taheri (the "Taheri patent"). Claim 37 has been apparently rejected by the Examiner over the Drasler patent.

It is respectfully submitted that the Drasler patent fails to teach the subject matter recited in the pending claims. Clearly, the Drasler patent does not teach longitudinal members/beams having a radial thickness greater than a circumferential width, with the longitudinal members/beams having a constant radial thickness. The Examiner conceded so in the Examiner's Supplemental Answer filed in the previously pending appeal. The Drasler patent merely discloses a hinge which has a radial thickness greater than a circumferential width but such hinge does not extend along the length of the cylinder, as recited in claim 1, or along the entire length of the beam, as recited in claims 12 and 17. As mentioned above, Applicants have amended independent claims 1, 12 and 17 to make it clear that the presently claimed invention is directed to a structure have a uniform thickness throughout the length of the medical device/endoprosthesis. On the contrary, the Drasler patent merely teaches a hinge with a radial thickness greater than its

circumferential width. Accordingly, the Drasler patent fails to disclose even the most basic structure recited in the pending claims.

In rejecting claim 37, the Examiner states that "Drasler does not disclose a hinge structure having the same profile as that of the pair of the longitudinal struts. However, it is well known to provide a hinge structure having a profile the same as that of a beam of a stent and further it would have been obvious to one of ordinary skill in the art at the time the invention was made to size the beam as recited in the claim because changing the size/dimension of a component as one desires is quite within level of one of ordinary skill in the art." Applicants strongly disagree with the Examiner's position for the following reasons. It is significant that the Drasler patent teaches a balloon-expandable stent including a hinge providing the strength to support a blood vessel and resist vessel contraction as well as **to provide the stent with non-crush characteristics in combination with struts configured to provide the stent with a compression yield force that could be properly overcome by balloon expansion** (See Col. 7, line 50 et seq.). The Drasler patent also teaches a self-expandable stent including a hinge having a greater radial dimension than the struts **to resist the formation of an oval cross section associated with crush deformation** (See Col. 8, line 66 et seq.). Accordingly, it is respectfully submitted that in view of the teachings of the Drasler patent, one of ordinary skill in the art would not have modified its teachings, as suggested by the Examiner, i.e., to provide a hinge structure having the same profile as that of a strut. The suggested modification suggested by the Examiner would simply be completely contrary to the teachings of the Drasler patent. The Taheri patent fails to supply any teaching to overcome these shortcomings of the Drasler patent. Accordingly, the obviousness rejections of the claims at issue should be withdrawn.

Therefore, for all of the foregoing reasons, it is respectfully submitted that each of the pending claims are allowable over the cited art.

In view of the apparent allowability of the pending claims, Applicants submit that withdrawn dependent claims 4, 11, 16, 18, 19 and 24 are in a condition for allowance as well. Applicants respectfully request that these withdrawn claims be allowed as well.

In view of the foregoing, it is respectively urged that all of the present claims of the application are patentable and in a condition for allowance. The undersigned attorney can be reached at (310) 824-5555 to facilitate prosecution of this application, if necessary.

In light of the above remarks, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

The commissioner is authorized to charge any deficiencies in fees or credit any overpayments to our Deposit Account No. 06-2425.

Respectfully submitted,

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